



2026:AHC:206035

Reserved
AFR



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 15461 of 2026

Vaseem Ahamad and 220 others

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Zain Abbas
Counsel for Respondent(s)	: C.S.C., Kushmondeya Shahi, Vaibhav Tripathi

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard Mr. Zain Abbas, learned counsel for the petitioners, learned Standing Counsel for the State, Mr. K. Shahi, learned counsel for the respondent no. 3 Commission and Mr. Shesh Pratap Singh holding brief of Mr. Vaibhav Tripathi, learned counsel for respondent no. 4.

2. The present petition has been filed seeking quashing of the impugned order dated 2.9.2026 and the notification/advertisement dated 3.9.2026 issued by the Uttar Pradesh Education Service Selection Commission, Prayagraj, to the extent that the same illegally and arbitrarily excludes Shiksha Mitras from applying for the Special TET examination.

3. Placing the brief facts of the case, learned counsel for the petitioners submits that the petitioners, 221 in number, are working as Shiksha Mitras in different districts of the State of Uttar Pradesh and are engaged in imparting education in primary and upper-primary schools run by the Board of Basic Education, Uttar

Pradesh. It is submitted that the petitioners have been continuously serving in the said capacity for approximately 26 years.

4. It is further submitted that the right to education of children between the age of six and fourteen years is guaranteed under Article 21-A of the Constitution of India and has been given statutory effect by the Right of Children to Free and Compulsory Education Act, 2009 (for short, “RTE Act, 2009”) and the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011.

5. Learned counsel for the petitioners submits that, in exercise of the power conferred under Section 23(1) of the RTE Act, 2009, the National Council for Teacher Education (for short, “NCTE”) issued notifications dated 23.8.2010 and 29.7.2011 prescribing the minimum qualifications for appointment of teachers, including the requirement of qualifying the Teacher Eligibility Test (TET). It is submitted that, pursuant thereto, the NCTE also issued guidelines dated 11.2.2011 for conducting the TET examination.

6. Learned counsel further submits that the Supreme Court, in **Civil Appeal No. 1385 of 2025, Anjuman Ishaat-e-Taleem Trust v. State of Maharashtra and others**, has held that qualifying the TET is mandatory for teachers covered by the statutory requirement. It is submitted that, in the review petition preferred by the State, being **Review Petition (Civil) Diary No. 53434 of 2025**, the Supreme Court extended the time available to in-service teachers to acquire the requisite TET qualification up to 31.8.2028. While doing so, the Supreme Court also observed that the competent authorities are required to conduct the examination periodically so as to afford eligible in-service teachers a reasonable opportunity to acquire the requisite qualification.

7. According to learned counsel for the petitioners, in view of the aforesaid judgment and the extension of time granted by the Supreme Court, qualifying the TET has assumed significance not merely as an academic qualification but as a condition governing continuation in service and future career progression of the teachers concerned.

8. Learned counsel submits that, purportedly in compliance with the aforesaid directions, the State Government issued the impugned Government Order dated 2.9.2026 directing the Uttar Pradesh Education Service Selection Commission, Prayagraj, to conduct a Special TET examination. Pursuant thereto, the Commission issued the impugned notification/advertisement dated 3.9.2026, scheduling the examination to commence from 3.11.2026.

9. The principal grievance of the petitioners, however, is that while prescribing the eligibility for appearing in the Special TET, the impugned Government Order has confined the examination to certain categories of serving teachers, including teachers working under local bodies and teachers working in institutions granted affiliation or recognition from time to time by the State Government or the Basic Education Council, teachers working in schools aided by the State Government, and special teachers, including teachers engaged for Children with Special Needs (CWSN) on contractual or daily-wage basis, while completely excluding Shiksha Mitras from the zone of eligibility.

10. Learned counsel for the petitioners submits that such exclusion of Shiksha Mitras, who have been continuously discharging teaching functions in primary and upper-primary schools for nearly 26 years, is wholly arbitrary and has no rational nexus with the object sought to be achieved by conducting the Special TET. It is contended that the very purpose of the Special TET is to provide an opportunity to eligible in-service teachers to acquire the qualification mandated by law, particularly when the Hon'ble Supreme Court has granted time up to 31.8.2028 for such teachers to qualify the TET. The exclusion of the petitioners from even appearing in the examination, therefore, defeats the very purpose for which such opportunity has been contemplated.

11. Learned counsel further submits that the impugned exclusion is violative of Article 14 of the Constitution of India. According to him, Article 14 prohibits hostile discrimination between persons similarly situated, and any classification must be founded upon an intelligible differentia which has a rational nexus with the object sought to be achieved. Reliance in this regard has been placed upon the decisions of the Hon'ble Supreme Court in the case of **Budhan Choudhry**

and others v. State of Bihar, (1954) 2 SCC 791 and D.S. Nakara v. Union of India, (1983) 1 SCC 305.

12. It is submitted that there is no intelligible differentia which can reasonably distinguish Shiksha Mitras from other categories of teachers who have been permitted to appear in the Special TET. According to learned counsel, the petitioners are also engaged in imparting education in the same primary and upper-primary schools and have been performing teaching duties for a prolonged period. It is, therefore, contended that permitting contractual or daily-wage special educators to participate in the Special TET while completely excluding Shiksha Mitras, despite their approximately 26 years of teaching experience, creates an unreasonable and discriminatory classification having no rational relationship with the object of conducting the Special TET.

13. Learned counsel for the petitioners further submits that the impugned exclusion also infringes the guarantee of equal opportunity contained in Article 16(1) of the Constitution of India. Placing reliance upon the judgment of the Hon'ble Supreme Court in the case of **Amita v. Union of India and others, (2005) 13 SCC 721**, it is submitted that the protection afforded by Article 16 extends not merely to the final stage of appointment but also to the stages preceding and incidental to employment, including participation in a prescribed eligibility or selection process. It is, therefore, contended that where an individual otherwise falls within the class for whom an eligibility examination is intended to be conducted, exclusion from appearing in such examination, without a reasonable and constitutionally sustainable basis, would itself have an adverse bearing upon the guarantee of equal opportunity in public employment.

14. On the aforesaid premise, learned counsel for the petitioners submits that the exclusion of Shiksha Mitras from the Special TET under the impugned Government Order dated 2.9.2026 and the consequential notification/advertisement dated 3.9.2026 is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India and, therefore, to that extent, is liable to be set aside.

15. Learned counsel for the petitioners further submits that there exists substantial functional equivalence between Shiksha Mitras and regular Assistant Teachers. It is contended that, in its administrative and educational functioning, the State Government itself treats Shiksha Mitras at par with regular Assistant Teachers in several respects. According to learned counsel, the petitioners prepare and implement daily lesson plans, maintain student attendance, participate in door-to-door campaigns for ensuring enrolment and attendance of children, assist in the distribution of mid-day meals, and discharge various administrative assignments, including duties relating to census and elections.

16. Learned counsel submits that the official record would demonstrate that, for the purposes of educational functioning, pedagogical requirements and capacity-building programmes, Shiksha Mitras and regular Assistant Teachers are subjected to substantially similar requirements. In support of the said submission, reliance has been placed upon the office order dated 2.9.2026 issued by the Block Education Officer, Jasra, Prayagraj, whereby Shiksha Mitras and regular Assistant Teachers were jointly rostered and directed to undergo a five-day Foundation Literacy and Numeracy (FLN) training under the NIPUN Bharat Mission.

17. It is submitted that the aforesaid training programme was organised pursuant to the directions issued by the Director General, School Education, vide letter dated 4.6.2026, and in compliance with the consequential directions of the District Basic Education Officer, Prayagraj, vide letter dated 24.6.2026. Pursuant to the aforesaid directions, the petitioners participated and successfully completed the five-day training programme conducted at the Block Resource Centre, Jasra, which was based upon Foundation Literacy and Numeracy (FLN) objectives and the relevant NCERT textbooks.

18. Learned counsel next submits that the fact that Shiksha Mitras and regular Assistant Teachers were required to participate jointly in the aforesaid academic and capacity-building programme, with substantially identical instructional objectives, training requirements, assessment parameters and institutional discipline, demonstrates that the State itself relies upon Shiksha Mitras for

imparting education in the same educational environment and for achieving the same foundational learning objectives as regular Assistant Teachers.

19. It is, therefore, contended that, having regard to the State's own administrative and educational framework, the complete exclusion of Shiksha Mitras from appearing in the Special TET, while permitting other categories of teachers performing teaching functions under the State's educational system to participate therein, creates an artificial distinction which is not supported by any rational basis. Learned counsel submits that the impugned exclusion is consequently arbitrary and discriminatory, particularly when the Special TET is intended to provide an opportunity to in-service teaching personnel to acquire the qualification mandated by law.

20. The learned counsel for the petitioner submits that the Government Order dated 2.9.2026 and the consequential impugned advertisement dated 3.9.2026, whereby a Special Teacher Eligibility Test has been notified for in-service teachers as well as Special Teachers engaged for Children With Special Needs (CWSN) in primary and junior high schools, are patently arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is submitted that the respondents have permitted teachers already working in primary and junior high schools, as well as CWSN Special Teachers, to participate in the aforesaid Special Teacher Eligibility Test, while excluding candidates such as the petitioners, who possess the minimum qualifications prescribed under the said Government Order and the relevant NCTE notifications dated 23.8.2010 and 29.7.2011. According to the learned counsel, once the petitioners possess the prescribed minimum qualifications, their exclusion from the Special Teacher Eligibility Test, while permitting similarly qualified categories of candidates to participate, has no rational basis and consequently amounts to hostile discrimination and violates the guarantee of equality of opportunity in public employment under Article 16 of the Constitution.

21. The learned counsel further submits that the action of the respondents is also contrary to the mandate of Article 14 of the Constitution, which prohibits

discrimination between persons who are similarly situated or are substantially in the same circumstances and conditions. It is contended that the classification made by the respondents between the teachers who have been permitted to appear in the Special Teacher Eligibility Test and candidates such as the petitioners, despite their possessing the requisite minimum qualifications, bears no reasonable nexus with the object sought to be achieved by conducting the Special Teacher Eligibility Test. The impugned exclusion, therefore, is alleged to be arbitrary and constitutionally impermissible.

22. The learned counsel for the petitioner further submits that Article 16 of the Constitution of India guarantees equality of opportunity in matters relating to public employment and permits the State to make constitutionally permissible special provisions in favour of the categories specifically contemplated under Article 16(4), 16(4-A), 16(4-B) and 16(6), as the case may be. It is contended that the category of persons who are merely working as Assistant Teachers in primary or junior high schools does not, by itself, constitute any of the constitutionally recognised categories for which such special treatment may be sustained under Article 16. According to the learned counsel, therefore, the respondents cannot, merely by restricting participation in the Special Teacher Eligibility Test to teachers already working in such schools, exclude otherwise qualified candidates, including the petitioners, without any rational and legally sustainable basis.

23. The learned counsel submits that the Teacher Eligibility Test is itself one of the prescribed qualifications for appointment to the Assistant Teacher in primary as well as junior high schools. Consequently, the respondents cannot create a class of persons entitled to acquire or participate in the Special TET solely on the basis that they are already working as teachers, while denying the same opportunity to other candidates who possess the requisite educational and training qualifications. Such a classification, according to the learned counsel, has no reasonable nexus with the object sought to be achieved by conducting the Special TET and is consequently violative of Articles 14 and 16 of the Constitution.

24. The learned counsel has further placed reliance upon the earlier Government Order dated 15.10.2013, issued for recruitment to the post of Assistant Teachers in primary schools run by the Board of Basic Education. It is submitted that under the said recruitment drive, candidates possessing the requisite D.Ed. Special Education qualification were not initially permitted to participate despite their possessing the prescribed qualifications. Such exclusion was challenged before this Court in Writ Petition Nos. 60054 of 2013, 60595 of 2013, 62269 of 2013 and 60160 of 2013. The learned Single Judge dismissed the petitions, accepting the stand of the respondents that the Government Order had been issued as a special recruitment drive for filling approximately 10,000 posts from candidates who had undergone the two-year BTC, Special BTC or BTC Urdu course.

25. The aforesaid judgment was challenged before the Division Bench in Harsh Kumar and another v. State of U.P. and others, Special Appeal Defective No. 130 of 2014 and Special Appeal No. 131 of 2014. The Division Bench, by judgment dated 5.2.2014, allowed the appeals and held, inter alia, that the learned Single Judge had erred in accepting the proposition that the recruitment could be confined to holders of the BTC qualification merely because such candidates had not earlier been adjusted for want of the TET qualification. The State carried the matter before the Hon'ble Supreme Court by filing Special Leave Petition (Civil) Nos. 12060-12061 of 2014, which came to be dismissed by the Supreme Court on 13.1.2015.

26. It is, therefore, submitted that the principle emerging from the aforesaid proceedings is that the State cannot, while undertaking a special recruitment or qualification-related exercise, arbitrarily confine eligibility to a particular category of candidates when other candidates possessing the prescribed qualifications are similarly situated and otherwise eligible. According to the learned counsel, the same principle applies with greater force in the present case, where the respondents have created a Special TET but have restricted participation only to teachers who are presently working in primary or junior

high schools and CWSN Special Teachers, thereby excluding other candidates possessing the prescribed qualifications.

27. The learned counsel further submits that the impugned Government Order and the consequential advertisement are also required to be examined in the light of the subsequent pronouncements of the Hon'ble Supreme Court relied upon by the petitioners, including the judgment in **Civil Appeal No. 1385 of 2025, reported as 2025 SCC OnLine SC 1912**, as well as the judgment dated 7.3.2025 in **Review Petition (Civil) No. 132 of 2016 and Review Petition (Civil) No. 53434 of 2025 in Rajneesh Kumar Pandey v. Union of India**. It is contended that the impugned Government Order, insofar as it restricts access to the Special TET exclusively to teachers already in service, runs contrary to the principles laid down in the aforesaid judgments and consequently cannot be sustained in law.

28. The Apex Court, in the judgment rendered in **Anjuman Ishaat-e-Taleem Trust (supra)**, has categorically held that qualification of the Teacher Eligibility Test (TET) is mandatory for teachers covered by the statutory regime. While exercising the jurisdiction conferred upon it under Article 142 of the Constitution of India, the Hon'ble Apex Court carved out a limited exception in respect of certain in-service teachers. It was directed that teachers having less than five years of service remaining before attaining the age of superannuation, as on the relevant date, may continue in service until attaining the age of superannuation without qualifying the TET. However, such teachers would not be eligible for promotion unless they qualify the TET.

29. So far as in-service teachers appointed prior to the enactment of the Right of Children to Free and Compulsory Education Act, 2009 are concerned, the Hon'ble Apex Court initially directed that those having more than five years of service remaining before superannuation would be required to qualify the TET within two years from the date of the judgment in order to continue in service. The aforesaid direction, however, was subsequently modified by the Hon'ble Apex Court by order dated 29.05.2026, whereby the time and/or manner of compliance prescribed for such in-service teachers was altered in terms of the directions contained therein. If this is intended for the present TET/special-TET

judgment, the last sentence should preferably specify exactly what was modified on 29.05.2026, so that the Court's direction is not stated more broadly than the actual order.

30. The learned counsel for the petitioners further submits that, in the case of **Rajneesh Kumar Pandey (supra)**, the Hon'ble Apex Court has not issued any direction restraining or prohibiting other candidates, who otherwise fulfil the requisite eligibility criteria, from appearing in the U.P. Special TET Examination, 2026. It is, therefore, submitted that there is no mandate emanating from the judgment of the Hon'ble Apex Court which could justify the exclusion of the petitioners from participating in the aforesaid examination.

31. It is further submitted that the petitioners possess the requisite qualifications prescribed under the relevant notifications issued by the National Council for Teacher Education (NCTE) and are, therefore, otherwise eligible to appear in the Teacher Eligibility Test. The mere fact that the petitioners are presently working as Shiksha Mitras, rather than as regular in-service teachers, cannot constitute a rational basis for denying them an opportunity to appear in the Special TET Examination, particularly when they are serving in the same schools and performing teaching duties alongside the teachers who have been permitted to participate in the said examination.

32. Learned counsel submits that the classification made by the respondents by restricting the benefit of the Special TET Examination, 2026 exclusively to in-service teachers does not bear any rational nexus with the object sought to be achieved. According to the petitioners, they satisfy the educational and training qualifications prescribed for appearing in the TET and are similarly situated, insofar as the teaching functions performed by them are concerned, with the teachers who have been permitted to appear in the examination. Their exclusion, therefore, amounts to an arbitrary classification and results in discriminatory treatment.

33. It is further submitted that the petitioners have repeatedly approached the competent authorities by submitting representations requesting that they also be permitted to participate in the Special TET Examination, 2026, but their

grievance has not been considered or decided. The continued exclusion of the petitioners, despite their asserted eligibility and repeated representations, is thus alleged to be arbitrary, unreasonable and violative of the principles of equality.

34. In view of the aforesaid submissions, learned counsel for the petitioners submits that the Government Order as well as the consequential advertisement, insofar as they restrict participation in the Special TET Examination, 2026 only to in-service teachers and thereby exclude otherwise eligible candidates such as the petitioners, are arbitrary, discriminatory and unsustainable in law. It is, accordingly, prayed that the offending portion of the Government Order and the consequential advertisement be quashed and the respondents be directed to permit the petitioners to participate in the Special TET Examination, 2026, subject to fulfilment of the prescribed eligibility conditions.

35. Learned counsel appearing for respondent No. 3, Mr. K. Shahi, on the other hand, submits that the petitioners, who are working as Shiksha Mitras in different districts of the State of Uttar Pradesh, have preferred the instant writ petition jointly challenging the Government Order dated 02.09.2026, whereby the State Government has permitted in-service teachers appointed prior to 23.08.2010 to participate in the Special TET Examination. The present writ petition has been filed by as many as 221 petitioners, who claim to be working as Shiksha Mitras in different districts of the State.

36. It is further submitted that the petition, having been instituted jointly by petitioners belonging to different districts and serving under different authorities, is not maintainable in the present form. Learned counsel submits that the issue of maintainability of such a joint writ petition has already been considered by this Court in its judgment and order dated 03.04.2026 passed in **Writ-A No. 4725 of 2026 (Km. Manju Devi and 120 others v. State of Uttar Pradesh and 12 others)**, and, therefore, the present writ petition is liable to be dismissed on the said ground.

37. Learned counsel for respondent No. 3 further submits that the petitioners, being Shiksha Mitras working in different districts of the State, have not furnished the requisite particulars regarding the institutions in which they are

presently working. The pleadings do not disclose, in respect of each individual petitioner, the name and particulars of the institution concerned, the relevant educational and service details, or other facts necessary for determining the individual claim of each petitioner.

38. It is, therefore, submitted that, having regard to the manner in which the present writ petition has been pleaded and the absence of institution-wise and petitioner-wise particulars, it would be difficult for this Court to effectively adjudicate upon the individual entitlement or eligibility of each petitioner. According to learned counsel, the petitioners have clubbed their claims without placing the necessary facts relating to each of them on record, which renders the present petition incapable of effective adjudication in its present form.

39. The learned counsel appearing for the respondents further submits that, after coming into force of the Right of Children to Free and Compulsory Education Act, 2009, the Central Government nominated the National Council for Teacher Education as the academic authority for prescribing the minimum qualifications for appointment of teachers in junior basic and senior basic schools. Pursuant thereto, the NCTE, by notification dated 23.08.2010, prescribed passing of the Teachers Eligibility Test (TET) as one of the essential qualifications for appointment as an Assistant Teacher in such schools.

40. He further submits that Section 23(2) of the Act, 2009 originally contemplated a period of five years for teachers to acquire the requisite qualification, which period was subsequently extended by a further period of four years by Act No. 24 of 2017. The aforesaid statutory provision and the issue concerning the time granted to in-service teachers have been considered by the Supreme Court in **Anjuman Ishaat-e-Taleem Trust (supra)**, whereby the period prescribed under Section 23(2) of the Act, 2009 was extended up to 31.08.2027.

41. It is further submitted that the State Government and the Teachers Association preferred a review petition, being Review Petition (Civil) Diary No. 53434 of 2025, which was considered and decided by the Hon'ble Supreme Court by order dated 29.05.2026, whereby the time granted under the judgment dated 01.09.2025 was further extended up to 31.08.2028. In compliance with the

aforesaid order of the Hon'ble Supreme Court, the State Government issued Government Order dated 02.09.2026 providing for a special TET for in-service teachers, in terms of the relaxation contemplated under Section 23(2) of the Act, 2009.

42. According to the learned counsel for the respondent, therefore, the impugned Government Order does not create any hostile discrimination or classification offending Article 14 of the Constitution of India. The special TET has been introduced pursuant to the statutory scheme and the directions issued by the Hon'ble Supreme Court, and is confined to those teachers who are already in service and are required to acquire the prescribed qualification within the extended period.

43. The learned counsel further submits that the regular TET examination was conducted on 02.07.2026, 03.07.2026 and 04.07.2026, in which, according to the respondents, 19,94,661 candidates submitted their applications. The petitioners were eligible to submit their applications and appear in the said examination, however, there is no averment in the writ petition explaining why they did not participate in the examination held on the aforesaid dates. The result of the said examination was declared on 26.08.2026.

44. It is thus contended that the petitioners, having failed to participate in the TET examination despite being eligible to do so, cannot now seek to challenge the subsequent arrangement made by the State Government for conducting a special TET exclusively for in-service teachers. The petitioners cannot claim parity with teachers who are already in service, since their status is materially different. Consequently, they are not entitled to the benefit of the special TET or any consequential leave or relaxation available to in-service teachers.

45. On these grounds, learned counsel for the respondents submits that the writ petition is devoid of merit and is liable to be dismissed.

46. Heard learned counsel for the parties. The matter is being decided, at this stage, with the consent of the parties. Written submissions have been provided by learned counsel for the petitioners as well as learned counsel for respondent no. 3.

47. The material placed before the Court, read in the light of the statutory scheme and the subsequent pronouncements of the Supreme Court, admits of a distinction which is fundamental to the adjudication of the controversy. The impugned Government Order is not a measure regulating a fresh recruitment process, nor does it create a preferential avenue of appointment or promotion in favour of one class of aspirants. Its object is confined to provide an opportunity to teachers already in service to fulfil the qualification which the Supreme Court in view of notification of the NCTE has held to be mandatory for their continuation in service. The petitioners, admittedly not occupying the status of in-service teachers, cannot therefore claim parity with a class to which they do not belong.

48. The manner, source and legal framework of appointment of Shiksha Mitras are fundamentally distinct from those governing Assistant Teachers who were appointed and had already entered service prior to the issuance of the NCTE notification making the acquisition of TET an essential qualification. Shiksha Mitras were engaged under a separate contractual and administrative arrangement and were not appointed against regular substantive posts of Assistant Teachers in accordance with the statutory regime governing regular teacher appointments. Their engagement, therefore, cannot be equated, either in law or in service status, with that of Assistant Teachers who had already been validly appointed and were discharging their duties before the introduction of TET as a mandatory qualification.

49. Conversely, the Assistant Teachers who were already in service when the NCTE notification prescribing TET came into force had entered service under the qualification regime then prevailing. The subsequent prescription of TET operated upon them as a post-entry statutory requirement, rather than as a condition precedent to their original appointment. It is this peculiar class of pre-existing in-service teachers which has been recognised separately in the judicial and regulatory framework, particularly for the purpose of affording them a reasonable and legally permissible opportunity to acquire the subsequently mandated qualification.

50. Thus, the two categories occupy distinct legal and factual fields, Shiksha Mitras derive their engagement from a separate mode of appointment, whereas pre-TET Assistant Teachers were already holding regular teaching posts before TET was introduced as a mandatory qualification. The benefit extended to the latter category cannot, therefore, be treated as a preferential relaxation in favour of similarly situated prospective candidates, rather, it constitutes a transitional measure designed to reconcile the subsequent statutory requirement with the pre-existing service position of teachers who had entered the cadre under an earlier qualification regime.

51. The legal position concerning TET, after the judgment of the Hon'ble Supreme Court in **Anjuman Ishaat-e-Taleem Trust (supra)**, and the subsequent judgment in the review proceedings, is no longer *res integra*. The Hon'ble Supreme Court expressly held that qualification of TET is mandatory for in-service teachers covered by the RTE Act and that such qualification is a condition for their continuation in service and, *a fortiori*, for promotion. While exercising jurisdiction under Article 142 of the Constitution, the Court initially granted the requisite period up to 31.08.2027. In the subsequent judgment dated 29.05.2026, the Court declined to review the substantive determination and merely modified the period of compliance, extending it up to 31.08.2028. The Court also directed the respective States and competent authorities to conduct TET periodically so as to afford eligible teachers a reasonable opportunity to comply with the statutory requirement.

52. The State Government, in issuing the Government Order dated 02.09.2026 for conducting a special TET for in-service teachers, has not travelled beyond the legislative or judicial framework governing the field, rather, it has acted in furtherance of the mandate flowing from the judgment dated 01.09.2025 as modified by the order dated 29.05.2026. The special examination is, therefore, referable to a distinct statutory and judicial purpose, namely, enabling an existing teacher to acquire the qualification necessary for continuation in service within the time specifically permitted by the Hon'ble Supreme Court. The subsequent order itself records that the requirement of TET

applies equally to in-service teachers and that the extended period expires on 31.08.2028.

53. The Government Order dated 29.06.2026 has been issued in compliance with the directions issued by the Hon'ble Supreme Court in **Anjuman Ishaat-e-Taleem Trust (supra)**, as subsequently considered in the review proceedings, which came to be decided by the Supreme Court on 29.05.2026. The State Government has, therefore, not acted upon its own discretion in isolation, but has implemented the time-bound dispensation and directions emanating from the judgment and the subsequent order passed by the Hon'ble Apex Court.

54. Once the impugned Government Order is demonstrably founded upon and issued in implementation of the binding directions of the Supreme Court, the same cannot be assailed before this Court on the premise that the underlying directions of the Apex Court were legally erroneous or ought not to have been issued. This Court, in exercise of its power of judicial review under Article 226 of the Constitution, cannot sit in appeal over, review, modify or nullify a judgment or order rendered by the Hon'ble Supreme Court. The constitutional hierarchy of courts necessarily requires that the binding declaration and directions of the Hon'ble Apex Court be given full effect by all subordinate courts and authorities.

55. Accordingly, to the extent the impugned Government Order merely effectuates and operationalises the directions issued by the Hon'ble Supreme Court, its validity cannot be adjudicated by this Court by indirectly questioning or undermining the correctness of the Supreme Court's judgment or subsequent review order. Any grievance directed against the substantive directions of the Hon'ble Apex Court could only be pursued in accordance with the remedies available against such order before the Hon'ble Supreme Court itself. The challenge laid before this Court, insofar as it seeks to invalidate a governmental measure issued in faithful implementation of the Apex Court's binding directions, therefore, cannot be sustained.

56. The submission of the learned counsel for the petitioners that the special TET confers an impermissible advantage upon in-service teachers, consequently,

cannot be accepted merely on the basis that the petitioners are also persons desirous of acquiring or possessing the qualification of TET. The relevant comparison under Article 14 is not between every person who is capable of appearing in TET, but between persons similarly situated for the purpose for which the impugned measure has been introduced. An existing teacher whose continuance in service has been made subject to acquisition of TET pursuant to a binding judgment of the Hon'ble Supreme Court occupies a legally distinct position from a person who is not in service and seeks eligibility for appointment. The two classes neither stand on the same factual footing nor are they governed by the same immediate legal obligation.

57. The distinction is reinforced by the NCTE notification dated 23.08.2010 issued under Section 23(1) of the RTE Act. The notification prescribed TET as one of the minimum qualifications for appointment as a teacher in Classes I to VIII in the schools covered by the Act. The statutory scheme, therefore, treats TET as an eligibility requirement connected with the professional qualification of teachers, and the subsequent judicial determination has specifically extended the obligation to the continuation of teachers already in service.

58. The contention founded upon Article 14 must consequently be tested upon the settled doctrine of reasonable classification. Article 14 does not prohibit classification; it prohibits arbitrary or hostile discrimination. The classification must rest upon an intelligible differentia distinguishing the persons grouped together from those excluded, and such differentia must bear a rational nexus with the object sought to be achieved. This principle, reiterated in **State of Kerala and another v. N.M. Thomas and others**, (1976) 2 SCC 310 and **Union of India and others v. Atul Shukla and others**, (2014) 10 SCC 432, applies equally where the classification concerns service conditions and public employment.

59. The contention founded upon Article 14 of the Constitution also fails to commend acceptance. The constitutional guarantee of equality does not postulate that every category of persons must invariably be subjected to an identical regime. The settled principle is that equality is amongst equals, and that persons who are differently situated may legitimately be treated differently,

provided the distinction rests upon an intelligible differentia having a rational nexus with the object sought to be achieved.

60. In the case of **State of West Bengal v. Anwar Ali Sarkar, (1952) 1 SCC 1**, the Constitution Bench of the Hon'ble Supreme Court explained that Article 14 is a guarantee against discrimination amongst equals and does not insist upon any "abstract symmetry" requiring every law or governmental measure to have universal application. The Court recognised that persons may differ by reason of their circumstances, status, attainment and the conditions governing them, and that such differences may legitimately furnish the basis for separate treatment. The same principle was authoritatively reiterated in the case of **Shri Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar, AIR 1958 SC 538** wherein the Supreme Court held that Article 14 does not prohibit reasonable classification founded upon an intelligible differentia having a rational nexus with the object sought to be achieved.

61. Tested on the aforesaid principle, Shiksha Mitras and Assistant Teachers who were already in service prior to the introduction of TET as a mandatory qualification cannot, merely for the purpose of invoking Article 14, be treated as one homogeneous and indistinguishable class. Their respective modes of engagement, source and nature of appointment, service status and the circumstances in which the requirement of TET came to operate upon them are materially different. The pre-existing Assistant Teachers constitute a distinct class of teachers who had entered service under the qualification regime then prevailing, whereas the engagement of Shiksha Mitras arose under a separate scheme and a distinct legal and administrative framework.

62. The mere fact that both categories may have performed teaching-related duties does not obliterate the legal distinctions governing their respective appointments and service status. Article 14 does not compel the State to disregard material differences and artificially treat unequals as equals. Indeed, treating persons belonging to materially different classes identically, without regard to the circumstances distinguishing those classes, may itself defeat the constitutional conception of substantive equality.

63. The impugned Government Order, therefore, cannot be invalidated merely on the ground that the benefit of the Special TET has been confined to the class of in-service teachers falling within the parameters prescribed therein. So long as the classification is founded upon a real and intelligible distinction and bears a rational nexus with the object of enabling the concerned pre-existing in-service teachers to comply with the subsequently mandated TET requirement, the exclusion of a differently situated category cannot, by itself, constitute hostile discrimination within the meaning of Article 14.

64. The principle is succinctly stated, the Constitution guarantees equality before law, not uniformity irrespective of relevant differences, it requires equals to be treated equally and permits unequals, where rationally distinguished, to be treated differently.

65. Applying the aforesaid test, the classification made by the impugned Government Order is neither artificial nor extraneous. The distinguishing circumstance is existing service pursuant to an appointment, coupled with the judicially declared obligation of such teachers to acquire TET within the period fixed by the Hon'ble Supreme Court. The object is equally discernible, to facilitate compliance with the statutory qualification requirement without bringing about an abrupt disruption in the existing teaching establishment and the elementary education of children. The nexus between the classification and the object is therefore direct and substantial.

66. Indeed, the judgment in **Anjuman Ishaat-e-Taleem Trust (supra)** itself proceeds upon precisely this distinction. The Hon'ble Supreme Court considered the position of teachers who were already in service and held that TET is mandatory for their continuation in service. The subsequent order dated 29.05.2026 retained that determination and merely enlarged the period available to such teachers for compliance until 31.08.2028. It would, therefore, be incongruous for this Court to treat the very classification which is the consequence of the Supreme Court's binding directions as an impermissible discrimination.

67. The submission of learned counsel for the petitioners that the impugned Government Order and the consequential advertisement offend Articles 14 and 16 of the Constitution, on the ground that Shiksha Mitras have been denied an opportunity to participate in the Special TET, is equally devoid of substance. The argument proceeds on an erroneous premise that the Special TET constitutes a process of recruitment or confers an advantage in appointment. The Special TET is essentially a qualifying examination intended to enable a specified class of existing in-service teachers to acquire a subsequently mandated eligibility qualification, it neither creates any post nor confers any right to appointment, promotion or preferential consideration in any future recruitment.

68. The constitutional guarantee of equality is not a mandate for indiscriminate uniformity. Article 14 permits reasonable classification, while Article 16 guarantees equality of opportunity in matters of public employment amongst persons who are similarly situated. As held in **N.M. Thomas (supra)**, and reiterated in the settled jurisprudence under Articles 14 and 16, the constitutional conception of equality permits differential treatment where persons constitute distinct classes in relation to the object sought to be achieved. Likewise, in the case of **Dr. Siddalinga Devaru & Anr v. Selection Committee, Kidwai Memorial Institute of Oncology**, ILR 1998 KAR 1556, the Hon'ble Court recognised that the protection of Article 16 is attracted amongst persons similarly situated and does not preclude the prescription of reasonable qualifications or the adoption of a rational classification.

69. The distinction in the present case is neither artificial nor adventitious. The teachers covered by the impugned Government Order constitute a distinct class of pre-existing in-service teachers who had entered service before TET was subsequently prescribed as a mandatory qualification. The Special TET is a transitional mechanism devised to enable that class to satisfy the qualification subsequently superimposed upon their service. The petitioners, however, assert a claim in the field of prospective appointment. Their position, therefore, is not

co-extensive with that of the existing in-service teachers for whose benefit the impugned measure has been introduced.

70. The distinction between qualification and appointment is decisive. Clearing the Special TET merely satisfies an eligibility requirement, it does not translate into appointment. No post is reserved, no recruitment avenue is created, and no preferential right to future appointment or promotion is conferred upon the persons permitted to appear therein. The opportunity extended is thus remedial and transitional in character, rather than preferential in the matter of public employment.

71. Consequently, the mere extension of such a limited qualifying opportunity to a materially distinct class of existing employees cannot, without more, be construed as an impairment of the petitioners' right to equality of opportunity under Article 16. The petitioners remain entitled to compete in any recruitment process in accordance with the qualifications and conditions lawfully prescribed for such recruitment. What Article 16 forbids is discrimination in the field of appointment, it does not prohibit the State from adopting a rational transitional arrangement enabling an existing class of employees to acquire a qualification which became mandatory after their entry into service.

72. The impugned measure, therefore, neither confers a recruitment advantage upon the in-service teachers nor correspondingly imposes a competitive disadvantage upon the petitioners. It merely affords the former an opportunity to bridge the qualification gap occasioned by the subsequent introduction of TET as a mandatory requirement. Such a measure, founded upon a demonstrable distinction between materially different classes and bearing a rational nexus with the object sought to be achieved, cannot be characterised as hostile discrimination or as an infringement of the petitioners' constitutional guarantee under Articles 14 or 16. The challenge on the said ground, accordingly, fails.

73. More importantly, the impugned Government Order does not confer upon the in-service teachers any right to appointment which is denied to the petitioners. Nor does it dispense with TET in their favour. Quite to the contrary, it requires the existing teachers to pass TET, and merely affords them a special

opportunity within the period sanctioned by the Hon'ble Supreme Court. Passing TET does not, by itself, confer a right to recruitment or employment; it constitutes an eligibility requirement within the statutory scheme. The NCTE framework itself recognises TET as an eligibility criterion and not as an independent guarantee of appointment.

74. The judgment relied upon by the learned counsel for the respondents in **Anjuman Ishaat-e-Taleem Trust (supra)** is, therefore, not merely relevant but furnishes the legal foundation for the impugned measure. The review judgment dated 29.05.2026 makes it explicit that the requirement of TET applies to in-service teachers and that the period for compliance stands extended up to 31.08.2028. The direction to the States and competent authorities to conduct TET periodically further demonstrates that the State's conduct in organising a special examination is referable to implementation of the judicial mandate.

75. The judgment in the case of **Uma Kant and another v. State of U.P. and others, 2025 INSC 1273**, also has relevance to the extent that the Hon'ble Supreme Court recognised the statutory framework concerning TET and held that teachers who acquired the TET qualification within the extended period could not be terminated merely because they had not possessed the qualification at the time of their initial appointment. The decision thus illustrates the legal significance attached to the period granted for acquisition of the prescribed qualification.

76. On the other hand, to the extent reliance has been placed by the petitioners upon authorities concerning equality, arbitrariness or the impermissibility of preferential treatment, those principles are undoubtedly well settled, but their application depends upon the existence of similarly situated persons. An equality clause cannot be invoked to obliterate a distinction which is founded upon a material difference recognised by statute or binding judicial directions. The question is consequently not whether the petitioners and in-service teachers are both capable of taking TET, but whether they occupy the same legal position for the purpose of the special examination. In simple words the answer is in negative.

77. The reliance, if any, placed upon the judgement in the case of **Mandeep Singh and others v. State of Punjab and others, 2025 INSC 834**, also does not alter the conclusion. That decision concerned the legality of a recruitment process in which statutory selection norms and the role of the competent recruiting authority were in issue. The Supreme Court emphasised that State action in the field of public recruitment must conform to the governing statutory framework and withstand the constitutional requirement of non-arbitrariness. Those principles are unexceptionable, however, the factual and legal setting of the present case is materially different. Here, the Government Order is not substituting a new selection mechanism for a statutorily prescribed recruitment procedure. It is implementing a judicially recognised compliance mechanism for teachers already in service.

78. The distinction between the two classes also becomes apparent from the consequence of the impugned Government Order. An in-service teacher does not obtain, by merely appearing in the special TET, any vested right to appointment, promotion, or continuation irrespective of the result. Such teacher remains subject to the requirement of successfully acquiring the prescribed qualification within the period fixed by the Hon'ble Supreme Court. Conversely, the petitioners' non-inclusion in the special examination does not deprive them of any existing service right, because they are not members of the class for whose compliance the special examination has been devised.

79. There is yet another aspect which cannot be overlooked. The petitioners were, according to the respondents, eligible to participate in the regular TET examination conducted on 02.07.2026, 03.07.2026 and 04.07.2026. If that factual assertion remains undisputed on the record, the petitioners' failure to avail themselves of that examination assumes significance. The subsequent special TET cannot be treated as a general second opportunity available to every person who chose not to participate in the regular examination. It's *raison d'être* is materially different. It is intended to enable existing teachers, whose continuation in service is subject to TET pursuant to the binding directions of

the Hon'ble Supreme Court, to discharge that obligation within the extended period.

80. At the same time, mere non-participation in the regular TET cannot, by itself, determine the constitutional validity of the Government Order. The validity of the impugned measure has to be tested upon its own statutory object, the classification adopted and its nexus with that object. Tested on those parameters, the measure survives constitutional scrutiny.

81. The Court is also mindful of the fact that the power exercised by the State Government in the present case cannot be examined in isolation from the constitutional obligation flowing from Article 144 of the Constitution, which requires all authorities, civil and judicial, to act in aid of the orders of the Supreme Court. Once the Hon'ble Supreme Court pursuant to notification of NCTE has declared TET to be mandatory for the concerned in-service teachers, fixed the period for compliance and directed the competent authorities to conduct TET periodically, an executive measure designed to facilitate such compliance cannot ordinarily be characterised as an independent grant of privilege divorced from the governing law. The Government Order is consequential in character and must be understood in that context.

82. The distinction, therefore, is not one created for the purpose of conferring an advantage upon one set of candidates over another. It is a distinction arising from status, statutory obligation and the nature of the judicially prescribed relief. The in-service teacher is required to acquire TET to preserve eligibility for continuation in service; the petitioner, not being an in-service teacher, seeks entry into a category to which the special compliance mechanism was never directed. Equality does not demand the identical treatment of persons situated differently in law.

83. The principle enunciated by this Court in the case of **Rakesh Kumar and 12 Others v. State of U.P. and 4 Others, Writ-A No. 9303 of 2026**, decided on 11.09.2026, also assumes significance in the present controversy. The Court has reiterated that where an eligibility framework is prescribed pursuant to binding directions of the Hon'ble Supreme Court, the same cannot be enlarged or diluted

by invoking equitable considerations or the jurisdiction under Article 226. Past engagement or experience cannot, by itself, override an express eligibility condition, nor can participation pursuant to an interim order create an eligibility or a vested right to appointment which otherwise does not exist.

84. Applying the aforesaid principle, the Special TET contemplated under the impugned Government Order cannot be treated as a recruitment mechanism or as a device conferring any preferential right of appointment. It is a transitional qualifying measure intended to enable the specified class of existing in-service teachers to fulfil a mandatory qualification which became applicable to them subsequent to their entry into service. The opportunity to appear in such qualifying examination, therefore, neither creates any post nor reserves any vacancy nor confers any vested right of appointment.

85. Consequently, the mere fact that another category of persons, including Shiksha Mitras, may also be engaged in teaching-related activities cannot, by itself, furnish a constitutional basis for compelling the State to enlarge the class for whom the Special TET has been prescribed pursuant to the governing judicial directions. Any such enlargement, if it has the effect of altering the class identified under the binding framework, would amount to modification of that framework rather than its judicial interpretation.

86. Accordingly, this Court finds that the Government Order dated 02.09.2026, insofar as it provides for a special TET for in-service teachers, is traceable to the statutory framework of Section 23 of the RTE Act and, more particularly, to the binding directions issued by the Hon'ble Supreme Court in **Anjuman Ishaat-e-Taleem Trust (supra)** and the subsequent review judgment dated 29.05.2026. The classification between in-service teachers and persons who are not in service rests upon an intelligible differentia having a direct nexus with the object sought to be achieved. It neither confers a right of appointment nor dispenses with the mandatory requirement of TET, rather, it facilitates compliance with that requirement within the period judicially prescribed.

87. For the aforesaid reasons, the challenge founded upon Articles 14 and 16 of the Constitution cannot be sustained. The petitioners cannot claim inclusion

in a special examination merely because they are otherwise eligible to undertake the ordinary TET. Their legal position is distinct from that of in-service teachers, and the Constitution does not require the State to erase a distinction which is founded upon a legitimate statutory purpose and reinforced by binding directions of the Hon'ble Supreme Court.

88. Consequently, the challenge to the Government Order dated 02.09.2026 fails. The writ petition, insofar as it seeks a direction to permit the petitioners to participate in the special TET meant for in-service teachers on the ground of alleged violation of Articles 14 and 16 of the Constitution, is liable to be dismissed.

89. Accordingly, the writ petition stands dismissed.

90. No order as to costs.

(Mrs. Manju Rani Chauhan,J.)

October 01, 2026

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